



U.S. Department of Justice

Antitrust Division

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January 18, 2017

Hon. Paul A. Englemayer
United States District Judge
United States Courthouse
Courtroom 1305
40 Foley Square
New York, NY 10007

Re: United States v. Christopher Cummins (17-CRM-026) (PAE)

Dear Judge Englemayer:

Defendant Christopher Cummins pled guilty before your Honor on Thursday, January 12th. In advance of the proceeding, the government submitted an unopposed motion and proposed order authorizing alternative procedures for victim notification in the case. During the plea hearing, Your Honor asked a series of questions to the government related to the motion. One question was if the class in the related civil action, *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (LGS) (SDNY), had been certified. The government replied yes. That was a misstatement and the government wishes to correct that misunderstanding. Class certification is not due to be briefed in that matter until December 2017. Since June 3, 2016, however, there has been a proposed class in civil case, which is defined as:

- OTC Class: All persons who, between January 1, 2003 and December 31, 2013 (inclusive) entered into an FX Instrument directly with a Defendant, where such persons were either domiciled in the United States or its territories or, if domiciled outside the United States or its territories, transacted one or more FX instruments in the United States or its territories.
- Exchange Class: All persons who, between January 1, 2003 and December 31, 2013 (inclusive) entered into an FX Instrument on an exchange where such persons were either domiciled in the United States or its territories or, if domiciled outside the United States or its territories, entered into one or more FX Instruments on a U.S. exchange.
- Exclusions from both Classes: Specifically excluded from the Classes are Defendants and their co-conspirators; the officers, directors, or employees of any

Defendant or co-conspirator; any entity in which any Defendant or co-conspirator has a controlling interest; any affiliate, legal representative, heir, or assign of any Defendant or co-conspirator, and any person acting on their behalf. Also excluded from these Classes are any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action.

Third Consolidated Amended Class Action Complaint, paragraphs 67-69, Dkt. No. 619, No. 13-cv-7789 (LGS) (SDNY)

Although the class is not yet certified, Judge Failla granted a similar order for alternative victim notification when Jason Katz pled guilty to the same charge for related conduct on January 4, 17-CR-003(KPF)(SDNY). Judge Underhill also granted similar orders in the District of Connecticut when Barclays PLC, 3:15-cr-00077 (SRU), Citicorp, 3:15-cr-78 (SRU), JPMORGAN CHASE & Co., 3:15-cr-79 (SRU), and The Royal Bank of Scotland PLC, 3:15-cr-80 (SRU), pled guilty on May 20, 2015 to 15 U.S.C. § 1.

The government continues to believe that reasonable and timely notice to potential crime victims through the Department of Justice's website and through lead counsel for *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-7789 (LGS) (SDNY) is a reasonable alternative procedure pursuant to 18 U.S.C. § 3771.

Respectfully,

UNITED STATES DEPARTMENT OF JUSTICE,
ANTITRUST DIVISION

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